

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Crl.MC.No. 2738 of 2007()

CC.469/2002 of JUDL.MAGISTRATE OF FIRST CLASS COURT, CHITTUR

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PETITIONER: ACCUSED

PRABHAKARAN NAIR, S/O.LATE NARAYANAN
NAIR, AGED 46 YEARS, PRABHA NIVAS,
KANIMANGALAM, NENMARA, CHITTUR TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS: COMPLAINANTS

1. PUSHPAKUMARI, D/O.LATE VASUDEVAN PILLA,
AGED 38 YEARS, DEVI NILAYAM, KOLLAMPOTTA,
VADAVANNUR, CHITTUR TALUK, PALAKKAD DISTRICT.

2. STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB
SRI.K.N.ABHILASH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J
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Crl.M.C.No.2738 of 2007
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Dated this the 10th day of September, 2007

ORDER

The petitioner is the accused in C.C.No.469/2002, pending before the Judicial First Class Magistrate Court, Chittur, on the basis of a private complaint filed by the 1st respondent- de facto complainant, alleging offences punishable, inter alia, under Section 498A IPC .

2. The petitioner and the first respondent have now come before this court with a prayer that the prosecution initiated by the 1st respondent- de facto complainant before the learned Magistrate may now be quashed invoking the powers under Section 482 Cr.P.C. The parties have settled their disputes amicably. The Spouses have resumed cohabitation and are residing harmoniously after the commencement of the proceedings. In these circumstances, the unnecessary continuance of the criminal prosecution against the petitioner is an avoidable irritant in their relationship. The 1st respondent has entered appearance through counsel. The petitioner and the 1st respondent have filed a joint statement asserting the matter has been settled between the parties. The learned counsel vouch for the fact of composition. Both counsel pray that the proceedings initiated by the 1st respondent may now be quashed.

3. I am satisfied from the averments made in the petition, submissions made at the Bar and from the joint statement filed by the petitioner and the 1st respondent, that the parties have willingly and voluntarily settled their disputes amicably.

4. However, the offence under Section 498A I.P.C is not legally compoundable under Sec.320 Cr.P.C. The learned counsel, in these circumstances, rightly rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the powers under Section 482 Cr.P.C are not fettered by the stipulations of Sec.320 Cr.P.C.

5. I am satisfied that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked in the interests of justice. The interests of justice may at times transcend the interest of mere law. I am satisfied that the prayer of the petitioner and 2nd respondent can be accepted.

6. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.469/2002 before the Judicial First Class Magistrate Court, Chittur, against the petitioner herein is hereby quashed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE

